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Attorneys for Defendants
CITY OF SANTA ROSA; RICH CELLI, an individual and Officer of the
SANTA ROSA POLICE DEPARTMENT; TRAVIS MENKE,
an individual and Officer of the SANTA ROSA POLICE DEPARTMENT;
and PATRICIA SEFFENS f/k/a PATRICIA MANN, an individual
and Officer of the SANTA ROSA POLICE DEPARTMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA DESANTIS, et al.,

Case No. C 07-3386 JSW

Plaintiffs,

**CONDITIONAL NON-OPPOSITION TO
PLAINTIFFS' MOTION *IN LIMINE*
NO. 2:
EXCLUDE TESTIMONY OF POLICE
EXPERT CALLANAN REGARDING
"SUICIDE BY COP"**

v.

CITY OF SANTA ROSA, et al.,

Defendants.

Hon. Jeffrey S. White

Pretrial Conference: July 2, 2012
Time: 2:00 p.m.
Ctmm: 11, 19th Floor

Trial Date: September 4, 2012

Defendants' hereby submit the following *conditional non-opposition* to Plaintiffs' Motion
in limine No. 2:

Plaintiffs seek to exclude any evidence of or reference to police expert Joseph Callanan's
opinions regarding his analysis of a theory of decedent's conduct known as "suicide by cop".
Plaintiff is correct in setting out Mr. Callanan's opinion that the intent or motivation of subject
Richard Timothy Desantis when he launched his final assault remains unknown. That said, an
action of an individual to provoke or otherwise cause a peace officer to respond with deadly force

1 to the provocation must be considered in the evaluation of the incident. A reasonable police
2 investigator such as Mr. Callanan cannot ignore the consideration of such an explanation. In this
3 event, Mr. Callanan did not reach a conclusion one way or another about whether Richard
4 Desantis committed "suicide by cop", but as a matter of foundation, a reasonable and prudent
5 investigator must have considered whether the evidence supported such a conclusion.

6 Defendants conditionally do not oppose the motion. That said, to the extent that the issue
7 is raised by plaintiffs, or to the extent that plaintiffs' seek to attack the foundation of Mr.
8 Callanan's opinions for failing to consider such a theory, defendants respectfully request that the
9 court grant such motion *in limine* no. 2 without prejudice to reconsideration at time of trial.

10 Dated: June 18, 2012

OFFICE OF THE CITY ATTORNEY

_____/s/

Caroline L. Fowler, City Attorney
John J. Fritsch, Assistant City Attorney
Attorney for Defendants